

**CASCADE COUNTY
PLANNING BOARD**

8/16/2022

9:00 AM

Hybrid Online/Zoom Online Video Meeting

Board Members: *Dexter Busby, Richard Liebert, Elliot Merja, Bruce Moore, Sara Murphy, Beth Schoenen and Rob Skawinski.*

NOTICE: PURSUANT TO MCA 2-3-212(1), THE OFFICIAL RECORD OF THE MINUTES OF THE MEETING IS IN AUDIO FORM, LOCATED AT CASCADECOUNTYMT.GOV AND THE PLANNING OFFICE. THIS IS A WRITTEN RECORD OF THIS MEETING TO REFLECT ALL THE PROCEEDINGS OF THE BOARD. MCA 7-4-2611 (2)(B). TIMESTAMPS ARE INDICATED IN RED, WITHIN EACH AGENDA ITEM BELOW, AND WILL DIRECT YOU TO THE PRECISE LOCATION SHOULD YOU WISH TO REVIEW THE AUDIO SEGMENT.

THESE MINUTES ARE PARAPHRASED AND REFLECT THE PROCEEDINGS OF THE CASCADE COUNTY PLANNING BOARD AND ARE CONSIDERED A DRAFT UNTIL FORMALLY APPROVED BY THE PLANNING BOARD.

STAFF ATTENDEES: Kevin Angland, Carey Ann Haight, Raina Leavens, Phoebe Marcinek, Alisha Osborne, Charity Yonker.

PUBLIC ATTENDEES: Paxton Ellis, Dean Grundy, Pamela J. Grundy, Mark Leo, Jenn Rowell, John Schmiedeke, Howard Schneider, Claude Weidow, Ashley Wilkinson, Darcy Wilkinson, Jake Wilkinson, Tim Wilkinson.

[Sound check and troubleshooting for volume is initiated].

1. **CALL TO ORDER:** Elliot Merja called the meeting to order at 09:00 AM [00:01:45].

2. **ROLL CALL:**

BOARD MEMBERS PRESENT: Dexter Busby, Richard Liebert, Elliot Merja (online), Bruce Moore, Beth Schoenen, Rob Skawinski.

BOARD MEMBERS ABSENT: Sara Murphy.

3. **APPROVAL OF THE MINUTES:**

A. Draft Meeting Minutes for July 21, 2022 [00:04:41]

1. **Board Discussion & Decision**

Elliot Merja: Asks if there are any corrections or additions. Hearing none, he asks if there is a motion to approve the minutes.

Richard Liebert: Moves to approve.

Dexter Busby: Seconds the motion.

Elliot Merja: Asks if there is anything else. Hearing none, he calls for a vote.

All in Favor, motion carries 6 – 0.

4. **OLD BUSINESS:** None.

5. NEW BUSINESS:

- A. Big Bend Ranch No. 16, Variance Request from CCSR Section 10-4 Maximum Road Length Standard of No More than 1000 Feet; Variance Request from CCSR Section 10-15(F)(1) Two Approaches for Legal and Physical Access; and Preliminary Plat Application for Big Bend Ranch No. 16 Major Subdivision Submitted by Big Bend Ranch Development Co. [00:05:29]

1. Raina Leavens, Planner, presents the Staff Report.

Motions Presented for the Board's Consideration:

1. Variance 1 (V1): Request to allow deviation from the maximum road length standard of 1000 feet for a road that end in a cul-de-sac/turnaround.

Or

2. Variance 2 (V2) Request deviation from CCSR § 10-15(F)(1) "Legal and Physical Access" requiring access to the property in all major subdivisions...shall be provided by a minimum of two approaches, located as remotely from each other as possible to assure more than one ingress/egress route for residents and emergency service providers.

Charity Yonker: Says since the Variance requires a public hearing, I assume the Board would like to stop there and consider and hold the public hearing for each of the variances.

Elliot Merja: Says he thinks that is appropriate and he is trying to keep his microphone on. The third one was two-fold, one was to allow the extra one hundred fifty (150) extra feet, and one was to deny it because they do not have a second egress. He requests clarification.

Charity Yonker: Says that is correct.

Elliot Merja: Asks if the Board can move to public comments prior to making a motion.

Charity Yonker: Clarifies that we need to have a public hearing.

Elliot Merja: Says we have the public comment on it now before there is any kind of motion.

Charity Yonker: Affirms.

Elliot Merja: Asks if there is any public that would like to speak.

2. Public Hearing opens at 09:26 AM, [00:26:26].

General Public Comments Regarding Big Bend Ranch No. 16:

Tim Wilkinson of 75 Spring Ridge Drive, Great Falls: Says he is the developer and he has the engineer, Mark Leo, who will also speak. He states he did not receive the staff report until the previous morning and have yet to receive the mailed copy. He says he requested several meetings with the Planning Department that were not granted and could have cleared up the issues. He explains the background for the Big Bend Ranch initial meeting in 2001 and the 2002 preliminary plat from the Commissioners. The Preliminary plat, which had fifty-six (56) more lots than we currently have, expired in early 2017. The development is taking a long time due to the recessions in 2008. He says the Staff Report mentions master planning and that there is no requirement to do so. He provides a brief explanation of the basic topography and says that Mr. Leo will speak more on that.

Mr. Wilkinson says there is a concern on page four (4) of the Staff Report. He explains that in 2001, they agreed to donate a half-acre lot to Cascade County for a fire department, which we did because we saw a need for fire protection in the area. We thought once it was built it would sell lots, and would be good for everybody, not just my own development. There is no one on the fire department now that was there twenty (20) years ago. It says on page four (4) it says, "Notably on

Big Bend Ranch Phase I and II, the Applicant deeded a tract of land to be utilized by the Gore Hill Voluntary Fire Department as a satellite fire station which has the potential to influence the objectivity and comments and recommendations". The first time I met the fire chief was when he came out and looked at the fire plan. He says his second concern is that the fire department as an agency sent a letter to the Planning Department and it was not included in the Staff Report. It is my understanding that agency letters need to be included. He asks if he can hand out copies.

Carey Ann Haight: Says yes.

Tim Wilkinson: Says he has a couple extras. He says he sees the fire chief is present and so assumes he will speak. He explains that instead of doing cisterns, which may be problematic, there is a public water system. He says the Staff Report is incorrect on the data, listing a public waste water system, when it is a public drinking water system. It is eighty thousand gallons underwater cistern with a distribution area in front that pumps out to the homeowners' pressurized lines. He explains the ingress and egress and four (4) inch fire hydrant installed at the pumphouse, with two wells that fill the cistern at about four hundred thirty (430) gallons a minute, which is much more water than needed. He says the fire department was thrilled at the idea as it would help new development and the old. He says that every time he has dealt with people from the fire department, he has found them people of integrity and is sure the chief has no idea who donated the lot and they had not met before. He asks what it matters who donated the lot and says that now he feels they are being punished for it. The response time would still be from Gore Hill otherwise.

Mr. Wilkinson asks to have the map on screen. He indicates the development area and explains the reason the steeper area is accessible is with an extra 150 feet due to the contour. He explains the variance request for ingress and egress and from the cul de sac follows the terrain and indicates the old farm road utilized for decades. He explains it was used to search for Judge Parker years ago in the winter time. It is a temporary situation. It will loop around and meet the other side.

He explains the section of the subdivision regulations that states he has the right to post a bond or letter of credit in case the cul de sac become permanent and the subdivision is not completed, so the road will be improved to county standard. He says he intends to follow through. He asks whether it makes sense after reading the definition of cul de sac, and explains he is willing to post a bond for the farm road for use in case an egress is needed. He reads the statute for the variance as listed in the regulations and then explains the topography and situation that he believes is unique to the property regarding the pivot points and why there are unable to meet the criteria. He says on page ten (10) that the list of condition for 150 feet is completely unreasonable and reads the list of conditions and explains his reasoning for the ingress and egress requirements being adequate. He says there is an email from DES that is unreasonable. He explains the process and reasoning for locating areas on the lots for housing and why certain places are not feasible for placing homes. He restates his requests and asks for the Board to accept the variance. He asks if there are any questions.

Beth Schoenen: Asks if there is a fence where the old farm road is.

Tim Wilkinson: Says they could not drive into the development and that they did not know where the actual property was because there are cattle fences there and it may be mistaken for another person's property. The improvements have not been done yet because we were wanting them approved first.

Beth Schoenen: Asks if there is a key to padlock for the firemen to access the area.

Tim Wilkinson: Says yes, there are many options such as breakaway gates, it can be driven or walked due to the gentle sloping on the farm area. He says he sees Mr. Liebert has a question.

Richard Liebert: Says he will direct it through the Chair.

Elliot Merja: Says yes, Mr. Liebert.

Richard Liebert: Asks if the southern perimeter of the number sixteen (16) runs parallel to the boundary.

Tim Wilkinson: Says down here *[he indicates the area on the map]*.

Richard Liebert: Says yes and asks if there is a road through there.

Tim Wilkinson: Says yes and the cul de sac is right here *[indicates it on the map]*.

Richard Liebert: Says he sees that and says the road is further south from the cul de sac and asks if it is suitable for traffic or an unimproved road.

Tim Wilkinson: Says it is a road.

Richard Liebert: Asks if it is serviceable.

Tim Wilkinson: Says yes.

Richard Liebert: Asks if the fire department or first responders could approach from the west and go up to the northeast.

Tim Wilkinson: Says yes but not right now, eventually the plan is to connect that road going up through.

Richard Liebert: Says so there is no way to come up from the southwest though.

Tim Wilkinson: Says not right now, though you can go through Mr. Volk's property, which is down here. There is much more to do with the floodplain stuff that we do not know where the road is going to be, which is why we cannot master plan it at this point.

Richard Liebert: Says he has a couple more questions for the developer.

Elliot Merja: Says yes.

Richard Liebert: Asks if the previous approved culs-de-sac were less than a thousand (100) feet.

Tim Wilkinson: Says yes.

Richard Liebert: Says so there is no provision for those conditional requirements.

Tim Wilkinson: Says we did not need to seek a variance because they were a thousand (1000) feet and under.

Richard Liebert: Says we are talking about one hundred and fifty (150) feet here.

Tim Wilkinson: Affirms.

Richard Liebert: Says he thinks it would be common sense that people would not want to clutter the roads with additional trailers and be a good neighbor.

Tim Wilkinson: Says we have covenants which are strict.

Richard Liebert: Says that he recommends that members of the HOA be courteous and kind to neighbors, even though it is not regulated you want to be cooperative.

Tim Wilkinson: Agrees.

Richard Liebert: Asks if there have been any incidents with the other culs-de-sac and perhaps the Fire Chief can address them. He says he sees the point of the bond so he can continue to develop a road to the east.

Tim Wilkinson: Says right, *[he indicates on the map where the road will be]* it is a peninsula. He explains where the road will tie into the existing road for access.

Richard Liebert: Asks if the pivot is on the north side just on the other side of number sixteen (16).

Tim Wilkinson: Says yes.

Richard Liebert: Asks if it is operational and whether they are growing alfalfa there.

Tim Wilkinson: Says it is operational, but not being used right now due to the field needing cleaned up because it was re-seeded and then the cattle trampled it.

Richard Liebert: Asks if there is a road trace that goes through the pivot from the one o'clock position down to the eight o'clock position.

Tim Wilkinson: Says that is the pivot.

Richard Liebert: Says the other trail, to your left.

Tim Wilkinson: Says this one.

Richard Liebert: Says yes.

Tim Wilkinson: Says yes, that is the existing farm road.

Richard Liebert: Says nobody traverses that one.

Tim Wilkinson: Says no, it is shut right now, it is a much better road than it shows on the map. The first responders used that road.

Richard Liebert: Says he was just trying to identify the different roads between Stonegate Road and Missouri Bend Road.

Tim Wilkinson: Says those are locked. Stonegate Road comes in and goes out, this is Missouri Bend Road.

Richard Liebert: Says now he understands.

Tim Wilkinson: Says the blue road is Missouri Bend Road.

Richard Liebert: Says and all those properties to the north have water cisterns.

Tim Wilkinson: Says yes. This is a different individual on these two (2) lots *[he indicates on the map]*, but we have sixty some homes on the public water system.

Richard Liebert: Says that is unique.

Tim Wilkinson: Say yes, it is but I would not do it again.

Richard Liebert: Says we see a lot of subdivisions that have water challenges. I will ask questions to the engineer later.

Elliot Merja: Says he has a question on where the cistern is located, where is the half-acre and asks if there is a firehouse on the half-acre.

Tim Wilkinson: Says the water cistern is here *[he indicates the area on the map]* and the fire station is right here *[he indicates it higher on the map]*. This is Fox Farm, and this is Dune [Drive]. We thought it would be a great location, so we gave it to the county as there are multiple routes to the subdivision. The fire chief is here, and he can come up and tell about it.

Elliot Merja: Says okay.

Dexter Busby: Says he has a question for Mr. Wilkinson.

Elliot Merja: Says okay.

Dexter Busby: Says he lives nearby, and they were supposed to get a second road put in, but never did. He asks how we can assure ourselves that it goes in if you are not available. He says the bond puts the money there and asks what happens if the land is not available because someone places a house in the middle of an intended easement.

Tim Wilkinson: Says that is a great question. He says he will have to talk to the legal staff, but we want to give an access easement. He asks if there are any other questions. Thank you.

Elliot Merja: Says thank you.

Mark Leo of 1324 13th Ave SW: Says he thinks Mr. Wilkinson covered everything. He reiterates that Mr. Wilkinson has been developing this for twenty (20) years now, and it is number sixteen (16) because the preliminary plat expired. It is a natural progression *[he indicates on the map the location of the development]* so it is progressing down and around. The river has challenges because it is in a regulatory floodplain. Mr. Wilkinson paid to have me study the river because it was in an unstudied area and FEMA did not have Base Flood Elevations established. So I studied and submitted to FEMA and got a Letter of Map Amendment (LOMA) identifying the areas that are out of the floodplain. The idea is to master plan it, but we are still dealing with the floodplain stuff, because if we put a road in the floodplain, we will have to prove it is not going to affect the characteristics of the floodplain. There is a lot of back and forth with FEMA and we will need to get a conditional letter from them stating we can add fill if necessary, to make the road work the way we want it to. At that point we will have to get a Floodplain Permit through the County Floodplain Administrator plus a formal Letter from FEMA, so it makes master planning this a bit challenging right now as we have nine (9) extra lots. We are getting to the point where we can and will submit

a formal master plan of what we intend to do with the river lots. He says if there are any other questions, he can take those now.

Richard Liebert: Says he has a question and asks how many future lots would be projected and whether they would be within the floodplain.

Mark Leo: Says at this point we do not have a count of lots we have a few mapped in sketches at best. We have identified the area out of the floodplain through the Letter of Map Amendment and we try to maximize space and add fill but not for septic setbacks so there are all those things we have to look through. No lot will be in the floodplain that is not allowed per the county Subdivision Regulations, those lots have to be their own lots and rezoned to Open Space.

Richard Liebert: Says potential buyers will know they are in the floodplain then.

Mark Leo: Says yes. The way the rules are set up we have to rezone them so you cannot build in the floodplain.

Richard Liebert: Asks if the road is the priority.

Mark Leo: Says yes.

Richard Liebert: Says without a road you cannot build.

Mark Leo: Says it is buildable, we need to find the right route and least expensive option.

Richard Liebert: Says build a road and everybody will come.

Mark Leo: Say that is right.

Richard Liebert: Says that would be problematic for everyone, including public safety, development and it has to withstand and not wash away in a hundred-year flood or something.

Mark Leo: Says that is right.

Richard Liebert: Says that is it.

Elliot Merja: Asks if anybody else has questions for Mr. Leo. Okay, thank you. He asks if there is any other public comment.

Pam Grundy of 100 Bend View Lane: Says she is the current property owner's association president. She reads a letter regarding the Big Bend Ranch Development and the importance of quality in development for fire departments. She explains that the developer cares about the development and doing it properly. She asks if there are any questions.

Richard Liebert: Says thank you for the letter and asks if he can ask a question.

Elliot Merja: Says yes.

Richard Liebert: Asks if anyone has any reservations about the culs-de-sac.

Pam Grundy: Says not that she has heard. We have emergency services there, we have the firehouse which has been very responsive to our needs. We appreciate the increase in the water storage for the fire department.

Richard Liebert: Says those are beneficial, and when people are in a cul-de-sac it is problematic sometimes. It depends on the buyer and who wants to live there.

Pam Grundy: Says we have culs-de-sac on the property already and have lived in them over the years, therefore I do not see it as a problem.

Richard Liebert: Says that is why he was asking for her personal experiences as a property owner. Thank you.

Elliot Merja: Asks if anybody else has questions. Hearing none, he asks if there is any other public who would like to speak.

Dean Grundy of 100 Bend View Lane: Says he is the first husband of the HOA president, and they have lived in the subdivision for years. It is nice to work with a developer who works with the land instead of grading it to make more money and additional lots. As for undue hardship, the county signs off and does not come in and take care of the roads after it is done. This gives the opportunity to have enough people to come in and assist with upkeep on the roads and water system. It is a practical matter as well. He states he is a retired firefighter and did thirty-three (33) years on that

job. He says he is offended by what was in the Staff Report about the fire department. He says it is wrong and apologies should be issued. He says that three of the audience are volunteers and that it was disgusting to read that a donated plot of land as some sort of compromise to integrity. The Gore Hill board takes the public trust very seriously and are very careful with the budgeted money to run the department professionally and proficiently. He says he feels that could have been handled differently. He explains the hose lay process the fire departments use to reach locations in culs-de-sac and how there is no difference in eleven fifty (1150) or one thousand (1000) feet.

Elliot Merja: Asks if there are any more public comments.

John Schmeideke of 235 Fisher Road: Says he is the Gore Hill Fire Chief and he can provide recommendations which he and his staff do. He says he does not know who donated the land for the fire station and he does not really care. He says he would like to know who put that in the Staff Report, because it makes him feel as if he is taking bribes. He says that is not okay, *[pointing at the Staff and Board members]* you guys receive a paycheck from the town, and I do not. He says he spends many hours making sure things run properly for the public and "you have the nerve to put into a public document that me or any of my staff do things for a bribe, and that is what you are saying".

Carey Ann Haight: Says the Planning Board members are all volunteers.

John Schmeideke: Says he does not care and demands to know who put that in the report.

Carey Ann Haight: Says it is part of the Staff Report.

John Schmeideke: Asks who put it in the report, because that is not okay.

Carey Ann Haight: Says legal authorized the language to be included because the Board should be on notice of the relationship. She says she apologizes that he took offense to it, but it should be included.

John Schmeideke: Says it should not be in there as it was donated to the county.

Carey Ann Haight: Says she will not debate this with him, he asked for an answer and she gave him one. She asks if he has any other comments for or against the development.

John Schmeideke: Says he is for the development.

Carey Ann Haight: Says to please direct his comments to the Board.

John Schmeideke: Says he has given a fire system out there that far surpasses any he has seen in the county and he has given recommendations to the county for approval. He says he has no dog in the hunt except to say the fire engine can get in there, it can do what it is supposed to do. We abide by the NFPA standards. He says he cannot enforce it, only provide standards for the county to follow. He says Mr. Wilkinson came and asked what the fire department thought, people went and looked at it and said it was a great idea. He explains that he has been able to turn every fire engine around in the culs-de-sac with no issues. He says he has not received any letter stating that the Board requires him to look at anything other than the road. He says it is not his fault if he cannot answer what he is being sent, and if they want information, they do well filling out forms and going to look at sites. He says he does not get paid to do this and he volunteers five or six hundred hours a year, therefore it is ridiculous to be treated the way he or his staff is treated with the comments and that is all he has to say.

Rob Skawinski: Asks if the difference in 1150 or 1000 cul-de-sac poses any issues for the fire department responding to a fire.

John Schmeideke: Says no.

Rob Skawinski: Asks if he sees any issues with the lack of additional ingress or egress.

John Schmeideke: Says on this one no, on other ones yes.

Rob Skawinski: Asks why not on this one.

John Schmeideke: Says because he can zip across a hay field if he needs to in order to get to where he needs to be. It is not in a coulee where the fire is running up both sides.

Rob Skawinski: Says so the existing terrain allows you to get in and out.

John Schmeideke: Says he has a fire department key and can get through just about anything if he has to. He reiterates that he has no issues reaching the area in a fire truck.

Rob Skawinski: Says thank you, that is all I have.

Elliot Merja: Says thank you and asks if there is any other public.

Claude Weidow of 56 Cherokee Drive: Says he is the assistant chief and do most of the site visits and these are his neighbors. He states he has a letter dated 5 June from Mr. Wilkinson who requested a letter of support from the fire department. He says the fire department found the water supply exceeded the requirements, supplying one point five hours (1.5) of sustained water supply. An average Montana home with a ten thousand (10, 000) gallon cistern would get the department through the first fifteen (15) minutes of a fire if the house was fully engulfed. This cistern has almost five hundred (500) gallons a minute. There is an almost indefinite supply from the pivot and the dock down the road during peak fire season. We always apply risk management and in our opinion the risk outweighs the benefit of the cistern being outside the minimum standard. He explains how the ingress and egress was not part of the formal discussion and was not able to review the actual variance. He says he read the agency comments and wants the Board to know his agency takes the protection of the public seriously and do their best to provide fair and unbiased assessments based on National Fire Protection Association standards. He says he takes exception to the statement insinuating his conduct in this matter was influenced by material gain. He states he would swear to the fact that he had no knowledge of the origin of the land that was acquired until yesterday. He says they will do their best to not be influenced by it no matter who the developer is. He provides his background in the Air Force and requests the Board to strike the final sentence in the second paragraph under the comments. He says if they can improve the process to let them know.

Richard Liebert: Says Mr. Chairman.

Elliot Merja: Says yes.

Richard Liebert: Says he concurs with everything said and it was regrettable what was written and maybe there was a miscommunication and does not think there is a question of integrity of all the volunteer firefighters and he depends on Ulm and Sand Coulee firefighters to protect him. He says his brother-in-law passed away from ground zero in New York City so he appreciates everything that has been said. He says for the record there is no issue with integrity for any volunteer fire department and just like Mr. Wilkinson said it is different than twenty years ago and there is nobody here from that time. Your comments are taken seriously and perhaps someone did not get an email or phone call. Everyone here is a volunteer and only get paid mileage from the County and that is it.

Claude Weidow: Says the purpose of his comments was to go on record stating that he had no previous knowledge.

Richard Liebert: Says he wants to go on record saying he has utmost confidence in the integrity of first responders.

Claude Weidow: Says he writes their letters to be objective to the best of his ability and put one opinion in indicating he thought it appeared to be the best water system in the district.

Richard Liebert: Says it is unique because we see a lot of these, and many have not done a cistern, so it is great to have a public water cistern and a benefit to public safety. That is all.

Elliot Merja: Says thank you and asks if there is anybody else that has any questions or any further public who would like to speak. Hearing none, he would entertain a motion so we can discuss this as a Board.

Public Hearing closes at 10:34 AM.

3. Board Discussion & Action on Variance Request from CCSR Section 10-4 Maximum Road Length Standard of No More than 1000 Feet: [01:34:23]

Richard Liebert: Says he has a question for legal staff first.

Elliot Merja: Says okay.

Richard Liebert: Asks about Mr. Wilkinson's request to post a bond for the secondary road out to the development. He asks if the language is legally sound.

Tim Wilkinson: Asks if he may speak on what his intention was.

Richard Liebert: Says please.

Tim Wilkinson: Says he would post a bond on a letter of credit to where if that became a permanent cul-de-sac that the farm road would be improved to county standards then it would comply with the subdivision regulations. If you feel that is necessary, I will do that.

Dexter Busby: Says he thinks we need some legal language on that plus an easement to ensure that it can be.

Tim Wilkinson: Says right and an associated easement. In Appendix C of the subdivision regulations it gives the developer the right to do that.

Elliot Merja: Asks if that answers the question.

Richard Liebert: Says Mr. Skawinski has a question.

Rob Skawinski: Asks if there is open discussion or if a motion is needed.

Elliot Merja: Says we are supposed to have a motion and a second and then a discussion.

Rob Skawinski: Says motion to discuss *[laughter]*.

Elliot Merja: Says no, there is a motion and a second and then there is more discussion.

Rob Skawinski: Says he will make a motion to discuss the issues openly as a Board.

Beth Schoenen: Says she will second it.

Elliot Merja: Says okay and asks what they would like to discuss.

Rob Skawinski: Says he has a couple things and perhaps it is a question and answer session amongst the Board. He says it seems like the two issues are the one hundred and fifty (150) feet, which I understand starts somewhere. According to the chief and the fire department it is not a big deal and I understand the legality of it and agree that one hundred fifty (150) feet is not a big deal, we just need to figure out a way to grant that variance based on common sense.

Dexter Busby: Asks if that can be a separate motion.

Elliot Merja: Says there was a third motion that allowed the one hundred fifty (150) feet but denied the second egress if this is read correctly.

Charity Yonker: Says Mr. Chair, these are proposed motions and conditions so the Board can modify if the Board would like to take up the variance for the one hundred fifty (150) feet first and then proceed into action for variance two if that is easier.

Rob Skawinski: Asks if we can make a motion to approve the variance for the one hundred fifty (150) feet based on based on the testimony of the local fire chief it is not an issue with this particular situation.

Richard Liebert: Says he will make a motion on variance one with an amendment to item three (3) on page ten (10). This separates V1 from V2. He asks if it will be sufficient.

Rob Skawinski: Says it might be better addressed one at a time.

Richard Liebert: Says that is parliamentary procedure. He moves to approves variance one to allow deviation from CCSR 10-4 due to all the variance criteria being satisfied. He says that is to get a motion.

Dexter Busby: Seconds the motion.

Elliot Merja: Asks if there is further discussion. Hearing none, he calls for a vote.

All in Favor, motion carries 6 – 0.

4. Board Discussion for Variance Request from CCSR Section 10-15(F)(1) Two Approaches for Legal and Physical Access [01:40:09]

Elliot Merja: Says the second part variance has to do with an ingress/egress, and that could be approved, denied or modified for a bond in case in needed to be fixed.

Rob Skawinski: Says he has a question regarding that too.

Elliot Merja: Says yes.

Rob Skawinski: Asks if that requirement is in play because of the additional one hundred and fifty (150) feet or if the cul-de-sac was less than one thousand (1000) feet if it would still be a requirement.

Raina Leavens: Says that is a requirement for any subdivision regardless of the first one.

Elliot Merja: Says they are supposed to have two ways in and out.

Rob Skawinski: Says he thinks they would like dead end culs-de-sac because they do not get thru traffic. There are differences of opinion on that. He says he does not see that as practically necessary in this case, but he does not know how to word that. He says he will take a shot at it.

Dexter Busby: Says he would make a motion to approve it with the condition that the developer provide an easement right and bonding or financial instrument to construct the second method of egress.

Beth Schoenen: Says she is sorry about breaking up procedure and asks if the signage would no longer be part of this anymore and it would be just the easement and the bond.

Multiple Board Members: Affirm.

Rob Skawinski: Asks whether the easement would be a temporary easement until the road gets looped together, as he does not imagine the developer would terminate easement forever once the road was looped together that easement could be abandoned.

Dexter Busby: Says there are procedures for abandoning an easement, so he does not really see it as an issue one way or another.

Rob Skawinski: Asks if we can ask the developer what would be most practical for him.

Dexter Busby: Says sure.

Tim Wilkinson: Asks Mr. Merja if he may speak.

Elliot Merja: Says yes.

Tim Wilkinson: Says that requirement for that access road is only a requirement if we do not connect another way out in the future. I would post a bond that if the cul-de-sac becomes permanent, I will bring that up to county standards, and I will draft an easement. I will need to speak to my attorney (my two kids are lawyers) and see how to handle that exactly, and we would not want to make that permanent if we can make that final connection. I am sure Ms. Haight can take care of that too.

Dexter Busby: Says he thinks we just need to have a level of assurance that it will be constructed one way or another.

Tim Wilkinson: Says yes, the way he has posted a letter of credit before was to get the bank to do the financial part of it and County Attorney's Office made any changes they thought was necessary.

Dexter Busby: Says just a suitable financial instrument. He asks Ms. Haight how to word this.

Carey Ann Haight: Says he is doing fine.

Richard Liebert: Says if he wants the technical language, start with "I move the Planning Board..."

Dexter Busby: Says "I move the Planning Board approve variance number two (2) with the following conditions: that the developer provide an easement right and a financial instrument suitable to construct a secondary easement. Now that can be a temporary easement if it will not go down that exact route. He asks if that will work.

Charity Yonker: Asks if she can read the motion back.

Dexter Busby: Says sure.

Charity Yonker: Says you are moving to approve Variance 2, with the following conditions: Developer provide an easement right, and financial instrument-can I say execute-financial instrument to construct a temporary access easement.

Dexter Busby: Says he does not know if we want the word temporary in there, just the access easement. Now he has the right to go elsewhere and put in his road, but this is in effect until that happens, if he goes elsewhere.

Beth Schoenen: Says it is if the cul-de-sac becomes permanent.

Dexter Busby: Says yes.

Charity Yonker: Says a point of clarification; she asks at what point does the cul-de-sac become permanent.

Multiple Board Members: *[Inaudible]*.

Phoebe Marcinek: Says she thinks they can say something along the lines of "satisfactory to subdivision regulations", in terms of a secondary road.

Dexter Busby: Says yes.

Richard Liebert: Asks if he is crafting a motion. He says just to help the process it should also include Staff Report, variance application and testimony because that is what we have is testimony from Mr. Wilkinson and others. Regrettably, some of this is not done in advance but we are trying to craft a motion and have a remedy so we do not have to table this, and we can go forward and get this done. I would refine it, Mr. Busby, before the comments about the legal requirements of the developer. He asks if it would be conditional if some other person developed it and the situation changes.

Tim Wilkinson: Says he thinks it should be whoever connects it.

Richard Liebert: Says in perpetuity or the next developers. He asks if that is complicated.

Dexter Busby: Says he does not think it needs to be.

Richard Liebert: Says current and future developers, but the future developers does not have to sign the bond and letter of credit that Mr. Wilkinson will sign.

Dexter Busby: Says that makes the financial instrument a little more complex is what it amounts to.

Richard Liebert: Says someone who would become a future developer would have to go through the-.

Tim Wilkinson: Says what about heirs if he dies.

Richard Liebert: Says he thinks that is getting a little deeper.

Dexter Busby: Says he does not want to go into how he thinks.

Richard Liebert: Asks if we say the current developer, Mr. Wilkinson or whether it would be implied.

Charity Yonker: Says it is implied.

Richard Liebert: Says developer will post a bond and sign a letter of credit.

Dexter busby: Says so if he goes away, there can be no other development until that is done.

Richard Liebert: Says he thinks it becomes moot there.

Rob Skawinski: Asks whether the easement is permanent then until it is abandoned.

Dexter Busby: Says he does not know if that makes much difference as easements can be abandoned. It takes the County to sign off on it.

Rob Skawinski: Says once the requirement is fulfilled the easement could be abandoned.

Phoebe Marcinek: Says *[inaudible]*.

Bruce Moore: Asks if we are doing away with [conditions] A through E on that.

Richard Liebert: says it is completely gone.

Rob Skawinski: Asks if what we have can be re-summarized.

Charity Yonker: Says "I move the Planning Board after consideration of the Staff Report, variance applications and testimony conditionally approve variance number two to allow deviation from CCSR Section 15 subsection F subsection 1 due to all the variance criteria being satisfied and sufficient findings made to support each of the criteria on the record with the following conditions: Developer an easement right and execute a bond or a letter of credit to construct road access". She asks whether they want to include the language "to County standards."

Dexter Busby: Says yes, probably.

Charity Yonker: Says "...to County standards in the event the cul-de-sac for the proposed subdivision becomes permanent".

Dexter Busby: Asks what the definition of permanent is, and when it becomes permanent.

Phoebe Marcinek: Says when it becomes the only permanent point of ingress.

Richard Liebert: Asks if that is time dependent.

Phoebe Marcinek: Says no she does not think so.

Elliot Merja: Says he thinks permanent means that if they quit trying to do more subdivision and at some point, they would have to finish a road, whether it goes across the pivot or to the west or east.

Phoebe Marcinek: Says she thinks the language suggests the cul-de-sac will be permanent at this time once it is developed. She says she does not want that necessity to trigger the road building.

Rob Skawinski: Says he thinks that what everyone is trying to ask here is at what point do we say they have to go build this road.

Phoebe Marcinek: Says she understands them.

Dexter Busby: Says that is exactly what they are getting at.

Phoebe Marcinek: Asks Ms. Yonker to read back the last sentence.

Charity Yonker: *Repeats the last line.*

Carey Ann Haight: Asks Mr. Wilkinson what his timeline is for the subdivision.

Tim Wilkinson: Says they put the application in two (2) years ago and have been working on the river for about five (5) years, and we want to keep proceeding so perhaps five (5) to seven (7) years at the outside but he thinks they will try to get something next year on the river area.

Carey Ann Haight: Says in terms of *[inaudible]*.

Tim Wilkinson: Says yes but he does not know because dealing with the federal government is very difficult.

Multiple Board Members: *[Inaudible chatter]*.

Tim Wilkinson: Says our goal is to work on that and get it done as fast as we can.

Multiple Board Members: *[Inaudible chatter]*.

Elliot Merja: Says in the Conservation District in a lot of things, we do a five (5) year plan. Perhaps we should put a five (5) year plan that it be re-addressed in five (5) years if this has not gone any further with the development. At that time, they can make a decision as to whether it be extended based on whether the development is coming through and it can get done or it be enforced.

Rob Skawinski: Says re-evaluated in five (5) years.

Dexter Busby: Says to be re-evaluated by Planning Department in five (5) years.

Richard Liebert: Asks if that is a second condition.

Dexter Busby: Says *[inaudible]* conditions.

Elliot Merja: Says that would take the place of it becoming permanent. He says you give them years to develop a plan and if they have not developed the plan, then they have to come back and tell us why.

Richard Liebert: Says so we are striking the phrase permanent and including a time period.

Elliot Merja: Says yes.

Richard Liebert: Say that makes it a little easier and more cogent.

Elliot Merja: Asks if they need it to be re-read so they can find a second.

Richard Liebert: Says it would be good to read it one more time for the benefit of the public since we are constructing some of this on the fly with Mr. Wilkinson's coordination.

Elliot Merja: Says okay and for Ms. Yonker to re-read it.

Charity Yonker: Says, "I move the Planning Board after consideration of the Staff Report, Variance Applications and testimony conditionally approve the variance to allow deviation from CCSR Section 10(15) Subsection (F) (1) due to all the variance criteria being satisfied and sufficient findings made to support each of the criteria on the record with the following conditions: The developer provide an easement right and execute a bond or letter of credit to construct road access to County standards, within five (5) years. If after five (5) years, the Applicant shall bring it back to..." she asks to the Commission for review or the Planning Department.

Dexter Busby: Says it should be Planning Department, it should not come back to you guys.

Phoebe Marcinek: Clarifies within five (5) years of the date of this meeting.

Charity Yonker: Clarifies within five (5) years of preliminary plat approval.

Richard Liebert: Asks Mr. Busby if it satisfies his motion.

Dexter Busby: Says yes, that is where he was heading.

Richard Liebert: Says now we need a second.

Elliot Merja: Says we need a second.

Beth Schoenen: Say she will second.

Elliot Merja: Says moved and seconded and asks if there is any further discussion.

Richard Liebert: Says we have crafted something based upon input from everybody and hopefully it will be more practical. This will also go before the County Commissioners and you can weigh in again to make sure there are no issues about the process, coordination or integrity and everyone will be better read into the situation.

Elliot Merja: Asks if there is any other discussion. Hearing none, he calls for a vote.

All in Favor, motion carries 6 – 0.

Elliot Merja: Asks if there is anything for Board Matters.

Richard Liebert: Says we have two (2) more motions, Mr. Chairman.

Elliot Merja: Apologizes and asks what they are.

Richard Liebert: Says page eleven (11) the Parkland Motion for Consideration. He asks if this is correct.

Charity Yonker: Says yes.

1. Raina Leavens presents the Staff Report.

Motions Presented for the Board's Consideration:

1. I move that the Cascade County Planning Board recommends, after consideration of the Staff Report and Findings of Fact, the Applicant's request for cash in lieu of parkland, and testimony, the Applicant does the following:

☐ Cash Donation

☐ Land Donation

If a land donation, the location for a park(s)/playground(s) should be at the:

☐ Applicant's discretion

☐ Planning Board, with Applicant's input, recommends a suitable park/playground location at:

☐ Combination of Cash and Land Donation

2. Board Discussion on Parkland Motion for Consideration. [01:57:59]

Elliot Merja: Asks if there is a motion so that the Board can discuss.

Richard Liebert: Moves the Board recommend a cash donation, in order to get a motion on the floor.

Rob Skawinski: Seconds the motion.

Elliot Merja: Asks if there is any further discussion.

Richard Liebert: Says he has a question for Staff. He asks if in any of the previous Staff Reports there was any mention of cash or property.

Charity Yonker: Says this is the first time we have inserted this layout to make it easier for the Board so the Planning Board can make this recommendation to the Commission and it has come up in other preliminary plat approvals recently at the Commission level, where the Commissioners have asked how it was determined for this to be considered parkland, whether it was considered suitable for parkland, so this is included in the Staff Report.

Richard Liebert: Says this is a new protocol, then.

Charity Yonker: Affirms.

Richard Liebert: Says that is all Mr. Chairman.

Elliot Merja: Says okay and asks if there is further discussion from the Board. He asks what the motion on the floor is and if it to adopt or deny.

Richard Liebert: Says Adopt.

Rob Skawinski: Says cash donation in lieu of land.

Elliot Merja: Asks if there is more discussion. Hearing none, he calls for a vote.

All in Favor, motion carries 6 – 0.

3. Preliminary Plat Application Motions Presented for the Board's Consideration [02:00:27]

1. I move that the Cascade County Planning Board recommend, after consideration of the Staff Report and Findings of Facts, **deny** the Big Bend Ranch Subdivision No. 16 Preliminary Plat;

Or

2. I move that the Cascade County Planning Board recommend, after consideration of the Staff Report and Findings of Facts, **adopt** said Staff Report and Findings of Facts, and **approve** the Big Bend Ranch Subdivision No.16 Preliminary Plat, subject to the following conditions:
 1. Reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserved and severed any remaining surface water rights from the land prior to final plat.
 2. Provide safe and adequate access including all internal private roads and cul-de-sacs, street signs, and stop signs, must be designed, constructed, installed, inspected, and certified by a licensed professional engineer that they meet at a minimum the Cascade County Subdivision Road Specification.
 3. Include on the final plat a statement certifying the status of the internal subdivision roads.
 4. Provide a copy of the approved Approach Permits, if required, with the Final Plat Application.
 5. Any conditions imposed as part the variance approval will be required to be satisfied to mitigate any identified concerns.
 6. Cause to be recorded in conjunction with the final plat, HOA CCRs with provisions granting sufficient authority and procedural mechanisms to administer, enforce, and fund the perpetual maintenance and discretionary improvement of the public rights of way created by and indicated on the final plat.
 7. A provision shall be included in the HOA CCRs requiring control of County declared noxious weeds.
 8. A statement shall be included on the Final Plat stating: "Lot owner(s) shall comply with the required Noxious Weed Management Plan, approved by the County Weed Supervisor."
 9. Submit a written Weed Management Plan to the Cascade County Weed Board specifying the methods for weed management procedures with regards to this development and incorporate it into the HOA CCRs or file with the Clerk & Recorder's Office along with the Final Plat.
 10. All vegetation disturbed during construction shall be reestablished with vegetation types that have been recommended by the MSU Extension Office.
 11. A copy of the MDEQ General Discharge Permit for Stormwater associated with construction activity in order to subdivide shall be submitted prior to final plat approval, if the disturbed area will exceed one (1) acre.
 12. The Montana Department of Environmental Quality (MDEQ) Certificate of Subdivision Approval (COSA) must be provided prior to final plat approval.
 13. Inclusion in the HOA CCRs and/or on the Final Plat a covenant restricting structure height of no greater than fifty (50) feet in height.
 14. A Fire Protection Plan must be established by the developer and written notice provided from the local fire chief, or designee, of inspection and approval of the Plan prior to final plat approval.

15. Include in the HOA Covenants, Conditions, and Restriction (CCRs) a provision for the maintenance of the Fire Protection Plan.
16. Install a fire suppression cistern system with a minimum of 14,500 gallons on-site with the proper appurtenances for the Gore Hill Volunteer Fire Department to use for firefighting at all times that is no further than 1000 feet way from any portion of any of the 9 residential lots, unless a centralized water supply designed by a licensed engineer and approved by the Commissioners is proposed.
17. Install an approach for access to the fire cistern and appurtenances.
18. Include in the HOA CCRs a provision for maintaining the fire cistern road approach.
19. Include in the HOA CCRs that the HOA shall be responsible for the perpetual maintenance of the fire suppression system, equipment, and appurtenances, including on-going water level monitoring, water refilling, repairs, and electronic monitoring systems.
20. Two points of ingress and egress must be provided unless an approved variance is obtained. If conditional variance approval is granted, the conditions must be satisfied before final plat approval.
21. The utility easements must be shown on the plat with dashed lines.
22. The final plat must contain the following statement: "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, wired broadband, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."
23. The final plat shall dedicate a minimum of 0.904 acres to park land unless a certificate of waiver of park land dedication is placed on the final plat demonstrating acceptance of cash in lieu or land donation outside of the proposed subdivision.
24. A calculation of the cash in lieu will need to be submitted based on the fair market value of the unsubdivided, unimproved land, and total paid to the County prior final plat approval if the Commission determines a cash donation is acceptable.
25. Correct any errors or omissions on the preliminary plat prior to final plat approval.
26. Complete required improvements within the proposed subdivision prior to approval of the final plat, unless a bond or other reasonable security approved by the County Commissioners is obtained prior to final plat.
27. Include in the HOA CCRs a provision that, at a minimum, require the yard setback requirements of the Cascade County Zoning Regulations.
28. Include in the HOA CCRs a provision limiting livestock in accordance with the Cascade County Zoning Regulations.
29. Include in the HOA CCRs a provision prohibiting commercial and industrial uses.

4. Board Discussion & Action on Preliminary Plat: [02:07:30]

Richard Liebert: Says he has a question for staff and one for the developer.

Elliot Merja: Says yes.

Richard Liebert: Asks if Conditions #22 and #23 are still valid considering the first two motions for the variances. He asks if it is still valid considering the Board directed cash in lieu of land.

Charity Yonker: Says she believes both of those conditions read correctly to incorporate what the Board has directed.

Richard Liebert: Says so no change on Condition #20.

Charity Yonker: Says no.

Richard Liebert: Says okay. He says he has a question for the developer.

Elliot Merja: Says yes.

Richard Liebert: Says Condition #20. He asks Mr. Wilkinson if they have fencing around number area since there is livestock.

Tim Wilkinson: Says the farmland is not in the subdivision so there is fencing.

Richard Liebert: Says he heard him talking about cattle and crops.

Tim Wilkinson: Says the fence that is along the roadway will be moved once we start developing.

Richard Liebert: Says so there will be fencing along Lots eighteen (18) through twenty-one (21).

Tim Wilkinson: Says yes.

Richard Liebert: Says it will keep wandering animals other than elk jumping into the property.

Beth Schoenen: Says she has a question on number sixteen (16) and asks if it should be changed to eleven fifty (1150).

Raina Leavens: Says that is not referring to the cul-de-sac, it is referring to how far away the cistern is from the location.

Beth Schoenen: Says it is still okay.

Tim Wilkinson: Says just to clarify, if they meet the centralized water system there are not going to be cisterns.

Dexter Busby: Says that is kind of different. He tells Mr. Merja that he has a question for the developer.

Elliot Merja: Says yes.

Dexter Busby: Says this has to do with wildland fire potential. He says Mr. Wilkinson has a very large irrigation system down there and asks if it would be suitable for helping fight wildland fires.

Tim Wilkinson: Explains how the assistant fire chief came and looked at the system and found there is a place they can hook up the fire hoses to. The downside is they are not running all the time but in a perfect situation it is eleven hundred (1100) gallons per minute.

Dexter Busby: Says that is at least twice what can be supplied from the hydrant.

Tim Wilkinson: Says yes it would be too much. He says it would be virtually no expense because of the way they can hook up to the current system.

Elliot Merja: Asks if there are any further questions.

Beth Schoenen: Says she has a question about the attachments that ends on page fourteen (14). She asks if they should add the Gore Hill Fire District letter they received today.

Charity Yonker: Says it is included in the binder.

Beth Schoenen: Says okay.

Richard Liebert: Says the letter is a public record.

Raina Leavens: Says yes.

Charity Yonker: Says it is in Appendix M.

Dexter Busby: Says Mr. Henen's are addressed.

Charity Yonker: Says those are in the attachments so those ones came in after we sent out packets and were provided to the Board members today. Those are from the Deputy Examining Land Surveyors at the Clerk and Recorder's office regarding the review.

Dexter Busby: Says those are easy corrections. They just need to be made.

Elliot Merja: Says we are looking for a motion.

Richard Liebert: Moves to approve.

Rob Skawinski: Seconds the motion.

Elliot Merja: Asks if there is any further discussion. Hearing none, he calls for a vote.

All in Favor, motion carries 6 – 0.

6. BOARD MATTERS [02:13:29]

Elliot Merja: Asks if anyone has anything the Board want to bring up.

Richard Liebert: Says he would like Ms. Yonker to introduce Ms. Leavens. He tells Ms. Leavens that the Board heard about her last meeting and now she is here.

Charity Yonker: Says this is Raina, we welcome her to the Planning Department, and she has done a great job.

Richard Liebert: Asks Ms. Leavens if she is from Great Falls.

Raine Leavens: Says yes, I am from Great Falls. She says she went to University of Montana and lived in Missoula for about ten (10) years and now she is back.

Richard Liebert: Says welcome.

Raina Leavens: Says thank you.

Elliot Merja: Asks if there is anyone else.

7. Public Comments [02:14:29]

None.

8. Adjournment at 11:13 AM [02:14:52]

Elliot Merja: Says hearing none I would accept a motion to adjourn.

Dexter Busby: Says so moved.

Elliot Merja: Seconds the motion and calls for a vote.

All in Favor, motion carries 6 – 0

These signatures are for the approval of the draft meeting minutes for:

August 16, 2022

For Richard D. Liberty [Signature] 9/20/22
President/Vice President or
Chair/Vice-Chair (Print) Signature Date

Charity N. Yonker Charity N. Yonker 9/20/2022
Planning Staff (Print) Signature Date

